

MONTANA
Public Safety Officer Standards and Training Council
Meeting Minutes January 19, 2012
MLEA Campus, Helena, Montana

Thursday, January 19, 2012

I. 0830-Call meeting to Order

II. Introductions

Council Members Present: Winnie Ore-Chair*, Ray Murray*, Lewis Matthews, Mike Anderson, Jim Smith*, Tony Harbaugh*, Dennis McCave*, Harold Hanser* (*phone call)

Staff Members Present: Wayne Ternes–Director, Clay Coker

Council Members Absent: Bob McCarthy, Georgette Boggio, John Schaffer, Alex Betz, Steve Barry

Staff Members Absent: Tana Meuer

Guests: Kevin Olson, Rick Layng, Ben Knaff

III. Approval of minutes from October 17, 2011 meeting

Mike Anderson moved to approve the minutes
Dennis McCave seconded
Motion carried

IV. Introductions of new council members

New Members: Winnie recognized Alex Betz as the new council member replacing Greg Watson. Also recognized was Mike Anderson who was re-appointed to his former position

IV. Old Business

1. Outstanding Resolutions

Wayne gave a report of the pending resolutions that have not been acted upon. Resolutions about provisional certification, automatic suspension upon being charged with a felony, defining part-time and reserve status as far as hours worked, mandatory reporting of misconduct, and contested case process.

Winnie directed Wayne to have Tana provide copies of the outstanding resolutions to all the council members to review so action can be taken on them at the February meeting.

2. Resolution 11-04 Contested Case Hearing Process Preferred Method (for adoption)

Wayne explained that the resolution is, on the advice of Clyde Peterson of Agency Legal Services, to avoid using any council members as the Hearings Officer in any contested case hearings.

Wayne explained the importance of avoiding ex parte communication in dealing with contested cases and advised that the Dept. of Labor and Industry has a Hearing Officer Bureau that is available to POST.

Jim Smith had a question about the “expertise” aspect of a Hearings Officer in the subject matter of the issue being heard.

Dennis also voiced his concern that a Hearings Officer may lack the “expertise” in the subject matter of the issue.

Winnie reminded the council that they have the final decision to accept, reject, or amend any recommendation of a Hearings Officer.

Ray Murray moved to approve the resolution as written

Mike Anderson seconded

Motion carried- Jim Smith voted in opposition

3. SFST Working Group Update

Wayne stated that the SFST working group that was formed is continuing to work and is meeting with NHTSA to prepare an assessment document. Tana had provided the council members with a written update from MHP Trooper Kurt Sager who is the SFST Coordinator.

V. Guest Issues

Kevin Olson stated that he did not have much to report. New LEO and CDOB basic courses began last week and MLEA curriculum submission is going according to plan. Winnie asked about the status of University approval of credits for MLEA. Kevin stated that the process is still on track and should be presented to the Board of Regents of the University of Montana this spring.

Ben Knaff addressed the council about his situation in applying for his certificates. He stated that he attempted to use his status with Three Forks Police Department as a part-time officer to fulfill his year of service to be eligible for his certificates but was recently informed that Mr. Coker had visited with Chief Burdick and advised that he had not been

legally hired and therefore was not eligible. Mr. Knaff expressed his concern that he is not being treated fairly. Winnie asked Mr. Knaff if he is currently employed in a peace officer position. Mr. Knaff stated that he is a Criminal Investigator for the Broadwater County Attorney but is not clear about the status. Wayne explained that the issue of Investigators for County Attorney's offices was discussed in 2007 and determined that they are not peace officers. Winnie asked Mr. Knaff about his status with Three Forks Police Department. Mr. Knaff stated that he is still not sure. Wayne explained the legal hiring requirements and stated that even before last April's meeting it was confirmed by Chief Burdick that Mr. Knaff was not employed. Wayne stated that the issue was put to rest until the recent receipt of an application for certificates by Mr. Knaff. This is what initiated Clay's visit with Chief Burdick and the confirmation that Mr. Knaff was not legally employed and is not eligible for any certificates.

Clay discussed his visit with Three Forks Police Chief Burdick and how that he had explained the statutory requirements for hiring a peace officer. Clay confirmed that Ben Knaff had not been legally appointed to a part-time position and is not eligible to apply for any certificates.

Mr. Knaff acknowledge that he now understands that he must be legally employed as a peace officer for one full year before he can again make application for any certificates.

Rick Layng stated that his only purpose for attendance was to observe and that he had no issues to address with the council. Winnie asked Mr. Layng about the general status of the current incoming students. Mr. Layng explained that the age range is still diverse but that the many incoming military veterans are bringing a great level of discipline and experience to the course.

VI. New Business

1. Financial Report

Wayne reported that we are at the 50% mark of the budget year and have expended only 18% of our operating expenses. However, we have not yet seen the bills for Agency Legal Services but Wayne stated that the budget should be fine and that he would keep the council apprised.

(At 0956 Tony Harbaugh left the meeting)

2. Director's Report

Wayne noted that we covered the complaint files at great length at the December meeting and only updated the council about some new complaints that have been coming in. Wayne stated that we have been directing people to the complaint process on our web site to initiate complaints. Wayne advised that any complaints coming in to the Governor's Citizen Advocate Hotline that involve public safety officers are automatically being forwarded to our office and many are complaints about the inaction of law enforcement and not any identifiable misconduct. We have been

refereeing all of these types of complaints back to the local jurisdictions and governments.

Wayne addressed the cases to be closed and gave a report explain why they were closed. Cases 11-04, 11-08, and 11-18 were closed.

Wayne reported that we now have a Hearings Officer on board and that we will have hearing dates set for the three current contested cases by next week. These are cases 10-03, 10-11, and 11-14.

Mike Anderson asked about the letter Wayne forwarded to the council about a complaint we had received involving child abuse. Wayne advised that the complaint was not a POST issue but that it was forwarded to the appropriate agencies.

Wayne reported that he found an oversight in the ARMs about instructor certificates. The rules do not state that you must have your basic certificate before you can apply for an instructor certificate. Wayne said that he would bring a resolution forward for consideration at the next meeting. Dennis brought up that the ARM may have been written that way years ago because there could be non-public safety officers that are POST certified trainers. Winnie corrected that POST does not issue any instructor certificates to non-public safety officers.

Wayne reported that he is still working on a national level with IADLEST. He also advised that there is a group, not IADLEST, working on setting a National Standard for Campus Police across the nation.

Wayne reported that Clyde Peterson of Agency Legal Services is going to conduct a training session for the council at the next meeting regarding their roles as a quasi-judicial board, contested cases and ex parte matters. Winnie asked that Wayne ensure that our Public Safety Officer council members get POST credit for the training.

Wayne gave an update on our web site since the DOJ update and about the link to transcripts being down. He advised that anyone can request their transcript through our office and we can email them out until the link is repaired. Wayne also advised of our ability to now immediately post updates and bulletins on the site on our own. Wayne also advised that he has asked the state IT for a “list serve” to be available for individuals to subscribe to automatically receive updates and bulletins by email.

Wayne advised that it is time to address any legislative request for the 2013 session, such as POSTs ability to have access to investigative files and personnel files. Dennis acknowledge the need for some legislative issues to be addressed in the 2013 session and recommended that council have a work session at the April meeting to identify what issues to address.

Meeting dates for 2012 were discussed and set as follows:

February 27th (Conference Call)

April 11-12

June 18th (Conference Call)

August 15-16
October 15th (Conference Call)
December 19-20

It was also noted that the 2012 MBCC crime prevention conference will be held in Billings on October,15-19 and it may be decided to hold the conference call from that location to afford council members the opportunity to attend the conference.

Wayne brought three cases forward for revocation because of felony convictions as follows:

Case 11-02 (Saksa-Stroop)
Dennis McCave moved to revoke
Mike Anderson seconded
Roll call vote taken-Unanimous
Motion carried
Case 11-03 (Henry)
Mike Anderson moved to revoke
Lewis Matthews seconded
Roll call vote taken-Unanimous
Motion carried
Case 11-26 (Kambich)
Ray Murray moved to revoke
Dennis McCave seconded
Roll call vote taken-Unanimous
Motion carried

3. Approval/Denial of Pending Certification List

Mike Anderson moved to approve the pending list as amended.
Dennis McCave seconded
Motion carried

4. Approval/Denial of Extension Requests

Jason Ferguson, Sweet Grass County Sheriff's Office
Dennis McCave moved to approve.
Ray Murray Seconded
Motion carried

Jim Beemer, Hill County Sheriff's Office
Mike Anderson moved to deny.
Dennis McCave Seconded
Motion carried

Tom Pandolfi, Fairview Police Department
Mike Anderson moved to approve.

Dennis McCave Seconded
Motion carried

Yellowstone County Detention Facility
Troy Jamieson
John Grosulak
Adam Erikson
Nathan Contreras
Dennis McCave moved to approve.
Ray Murray Seconded
Motion carried

5. Approval/Denial of Equivalency Requests

Randy Schott, Livingston Police Department
Dennis McCave moved to approve the equivalency request
Ray Murray seconded
Motion carried

Kirk Fitch, Havre Police Department
Mike Anderson moved to approve the equivalency request
Dennis McCave seconded
Motion carried

Wade Creighton, Roosevelt County Sheriff's Office
Mike Anderson moved to approve the equivalency request
Dennis McCave seconded
Motion carried

Adam Pankratz, Montana FWP
Dennis McCave moved to approve the equivalency request
Mike Anderson seconded
Motion carried

Richard Smith, Montana Department of Justice
Mike Anderson moved to approve the equivalency request
Dennis McCave seconded
Motion carried

Jessica Vanderhoef, Lincoln County Sheriff's Office
Dennis McCave moved to approve the equivalency request
Mike Anderson seconded
Motion carried

Donald Niemeir, Hamilton Police Department
Ray Murray moved to approve the equivalency request
Mike Anderson seconded

Motion carried

6. Committee Reports

Curriculum Committee- Dennis McCave- No report

Business Plan Committee- Steve Barry- Absent- No report

Professionalism/Integrity Committee- John Schaffer- Absent

Policy Committee- No Chair-No report

Coroner Committee- Tony Harbaugh- Absent- No report

7. Council Member Reports

~Ray Murray

Bob stated nothing to report from the Board of Private Security. He gave kudos to Greg Watson. He was on television in regards to the bus accident on I-90 and come across very well.

~Dennis McCave

Dennis stated that he is anxious to get to the April meeting to “go to the whip” on policy and procedure issues and explore a “hearings or complaint committee” that could utilize council members.

~Lewis Matthews

Nothing to report other than he has been involved in helping with the missing person case out of Sidney.

~ Mike Anderson

Mike stated that he believes it is not a good idea for any council members to be involved in any hearing/complaint committee in any way but agrees with utilizing outside parties such as former POST directors as being explored by Wayne. Mike also reported that the MBCC has a new Executive Director and that the 2012 MBCC Crime Prevention Conference will be October 15-19.

~James Smith

No report other than that he has been involved in an unprecedented number of unnatural death investigations in the past few weeks. There have been four suicides and three homicides.

~Harold Hanser

No report

VI. Public Comment

No public comment

VI. Adjourn

Dennis McCave made a Motion to Adjourn

Mike Anderson seconded

Motion carries

Winnie adjourned the meeting at 1137.